



# Finance (No. 2) Act 1997

## 1997 CHAPTER 58

### PART III

#### INCOME TAX AND CORPORATION TAX

##### *Distributions, tax credits etc on and after 2nd July 1997*

#### **19 Pension funds no longer entitled to payment of tax credits.**

- (1) In section 231 of the Taxes Act 1988 (tax credits for certain recipients of qualifying distributions)—
  - (a) in subsection (2) (payment of tax credits to companies resident in the United Kingdom) for “Subject to section 241(5)” there shall be substituted “ Subject to sections 231A and 241(5) ”; and
  - (b) at the beginning of subsection (3) (claims by other persons to set tax credits against income tax liability and to receive payment of any excess of tax credit over that liability) there shall be inserted “ Subject to section 231A, ”.
- (2) After section 231 of the Taxes Act 1988 there shall be inserted—

#### **“231A Restrictions on the use of tax credits by pension funds.**

- (1) No claim shall be made under section 231(2) for payment of the amount of a tax credit if or to the extent that the qualifying distribution to which the credit relates is income of a pension fund.
- (2) In the case of any pension fund, for any year of assessment the aggregate amount of the tax credits in respect of which claims are made under section 231(3) must not exceed the aggregate amount of the tax credits in respect of the qualifying distributions comprised in the income of the pension fund and brought into charge to tax.
- (3) Accordingly, no payment shall be made under section 231(3) in respect of so much of the excess there mentioned as is referable to a tax credit in respect

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of a qualifying distribution if or to the extent that the qualifying distribution is income of a pension fund.

(4) In this section—

“income”, in relation to a pension fund, means income derived from investments or deposits held for the purposes of the pension fund;

“pension fund” means any scheme, fund or other arrangements established and maintained (whether in the United Kingdom or elsewhere) for the purpose of providing pensions, retirement annuities, allowances, lump sums, gratuities or other superannuation benefits (with or without subsidiary benefits);

“scheme” includes any deed, agreement or series of agreements.

(5) For convenience of identification only, the schemes, funds or other arrangements which are “pension funds” for the purposes of this section by virtue of the definition of that expression in subsection (4) above include, in particular, those whose income is, in whole or in part, exempt, or eligible for exemption, from tax under or by virtue of any of the following provisions—

- (a) section 512(2);
- (b) section 592(2);
- (c) section 608(2)(a);
- (d) section 613(4);
- (e) section 614(2), (3), (4) or (5);
- (f) section 620(6);
- (g) section 643(2).

(6) The preceding provisions of this section do not have effect in relation to—

- (a) claims made in respect of tax credits to which entitlement arises by virtue of section 232(3); or
- (b) claims made by virtue of arrangements having effect under section 788.”

(3) This section has effect in relation to qualifying distributions made on or after 2nd July 1997.

## **20 Losses etc not to be set against surplus franked investment income.**

(1) No claim shall be made under section 242 or 243 of the Taxes Act 1988 (set off of losses etc against surplus of franked investment income) for any accounting period beginning on or after 2nd July 1997; and section 244(1) of that Act shall cease to have effect accordingly.

(2) Sections 242(5) and (6) and 243(4) of the Taxes Act 1988 (restoration of loss etc in later accounting period for which there is a surplus of franked payments) shall not have effect where the later accounting period mentioned in section 242(5)(b) begins on or after 2nd July 1997.

(3) No amount shall be deducted under paragraph (a), or carried forward and deducted under paragraph (b), of section 244(2) (deduction of tax credit paid from ACT subsequently available for set off or surrender) for any accounting period beginning on or after 2nd July 1997.

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- (4) For the purposes of sections 242 and 243 of the Taxes Act 1988, if—
  - (a) a company has a surplus of franked investment income for an accounting period beginning before 2nd July 1997 and ending on or after that date, and
  - (b) that surplus exceeds the surplus of franked investment income which the company would have had for that accounting period had it ended on 1st July 1997,the surplus shall be treated as reduced by the excess.
- (5) Sections 242 to 244 of the Taxes Act 1988 cease to have effect in consequence of, and in accordance with, the foregoing provisions of this section.
- (6) In section 237(4) of the Taxes Act 1988 (bonus issue and related tax credit not to be franked investment income for the purposes of sections 241 and 244) for “sections 241 and 244” there shall be substituted “ section 241 ”.
- (7) Subsection (6) above has effect in accordance with subsection (5) above.

## **21 Estates in administration: distributions to which s.233(1) applies.**

- (1) Section 699A of the Taxes Act 1988 (untaxed sums comprised in the income of the estate) shall be amended as follows.
- (2) In subsection (1) (which defines “a relevant amount” by reference to an amount which is or would be paid out of sums to which paragraphs (a) and (b) apply) after paragraph (b) there shall be inserted—

“or out of any sums included in the aggregate income of the estate of the deceased which fall within subsection (1A) below.”
- (3) After subsection (1) there shall be inserted—

“(1A) A sum falls within this subsection if it is a sum in respect of a distribution to which section 233(1) applies.

(1B) Any reference in this Part to a sum to which subsection (1)(a) and (b) above applies includes a reference to a sum falling within subsection (1A) above which is included in the aggregate income of the estate of the deceased.”
- (4) In subsection (4) (rate at which sums are assumed to bear tax) after paragraph (b) there shall be inserted “; and
  - (c) in the case of sums falling within subsection (1A) above, at the lower rate.”
- (5) This section has effect in relation to amounts which a person is deemed by virtue of Part XVI of the Taxes Act 1988 (estates in the course of administration) to receive, or to have a right to receive, on or after 2nd July 1997.

## **22 Lloyd’s underwriters.**

- (1) In section 171 of the <sup>M1</sup>Finance Act 1993 (taxation of profits, and allowance of losses, of non-corporate members) after subsection (2A) there shall be inserted—

“(2B) Section 231(1) of the Taxes Act 1988 (entitlement to tax credit) shall not apply where the distribution there mentioned is a distribution in respect of any asset of a member’s premiums trust fund.”

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- (2) In section 219 of the <sup>M2</sup>Finance Act 1994 (taxation of profits of corporate members) at the beginning of subsection (3) there shall be inserted “ Subject to subsection (4A) below, ”.
- (3) In subsection (4) of that section (subsection (2) applies in relation to distributions and associated tax credits notwithstanding section 11(2)(a) or 208 of the Taxes Act 1988)
- (a) for “dividends or other distributions of a company resident in the United Kingdom” there shall be substituted “ UK distributions ”; and
- (b) the words “(and any associated tax credits)” shall cease to have effect.
- (4) After that subsection there shall be inserted—
- “(4A) Notwithstanding anything in section 11(2)(a) or 208 of the Taxes Act 1988, UK distributions in respect of any assets of a corporate member which are mentioned in paragraph (a) or (b) of subsection (3) above—
- (a) shall be taken into account in computing profits of the corporate member for tax purposes; and
- (b) shall be so taken into account under Case I of Schedule D (and not under any other Schedule or any other Case of Schedule D).
- (4B) Section 231(1) of the Taxes Act 1988 (entitlement to tax credit) shall not apply where the distribution there mentioned is a distribution in respect of any asset of a corporate member’s premiums trust fund.
- (4C) In this section “UK distributions” means dividends or other distributions of a company resident in the United Kingdom.”
- (5) In section 20(1) of the Taxes Act 1988, as amended by section 24(10) below, in paragraph 2 of Schedule F (distribution in respect of which a person is entitled to a tax credit treated for the purposes of the Tax Acts, other than section 95(1), as representing income equal to the aggregate of the distribution and the tax credit) after “95(1)” there shall be inserted “ of this Act and section 219(4A) of the Finance Act 1994 ”.
- (6) In section 231(1) of the Taxes Act 1988 (recipient of distribution made by UK resident company entitled to tax credit subject to sections 247 and 441A) after “441A,” there shall be inserted “ section 171(2B) of the Finance Act 1993 and section 219(4B) of the Finance Act 1994, ”.
- (7) This section has effect in relation to distributions made on or after 2nd July 1997.

**Marginal Citations**

**M1** 1993 c. 34.

**M2** 1994 c. 9.

**23 Insurance companies and friendly societies.**

Schedule 3 to this Act (which makes provision in relation to insurance companies and friendly societies) shall have effect.

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